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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/698,598	PIPAL ET AL.
	Examiner	Art Unit	
	Farid Homayounmehr	2439	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 December 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>10,11,13-18,33,35-38 and 40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>10, 11, 13-18, 33, 35-38, and 40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail. Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: application, filed 10/31/2003;

amendment filed 12/22/2008.

2.   Claims 10, 11, 13-18, 33, 35-38, and 40 are pending in the case. Claims 1-9, 19-

32, and 39 are withdrawn from consideration. Claims 12 and 34 are cancelled by the

applicant.

Response to Arguments

3.   Applicant's argument relative rejections under section 103 are moot in view of the

new grounds of rejection reflected in the following.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16 and 38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. Applicant's remarks point to original specification

at page 13 paragraph [0039] for support of the new feature outlined in claims 16 and 38.

However, the cited part does not include any explanation or description related to the

feature of: "wherein the user initiation of the execution of the program code includes a

user attempt to access a file associated with the program code such that accessing the

file initiates execution of the program code."

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 10, 11, 13, 16-18, 33, 35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kester (US Patent No. 7,185,015, filed March 14, 2003), hereinafter

called Kester, in view of Kottapurath et al. (US Patent No. 6,533,490, filed June 30,

1997), hereinafter called Kot.

Kester teaches detecting the launch of an application on a workstation (col. 4 lines 24-

30) by a workstation management module, and determining access privileges of the

workstation or the user. This determination is based on the application attributes, one of

which is the version of the application (a hash, which identifies the application, is

generated. One of the identifiers is the version of the application, as shown in col. 4

lines 42-52). The access privileges are determined based on an operating policy (col. 5

lines 25-30), and if the policy does not allow the execution of the identified application,

the execution is denied (col. 5 lines 30-39). Kester in view of Kot teaches the limitations

of claims detailed as follows:

6.1.   As per claim 10, Kester is directed to a method comprising: performing a version

inquiry consequent to a user initiation of an execution of a program code (col. 4 lines

23-53. Line 24-29 shows that after the initiation of the execution, access privileges of

the user or the workstation is determined. Part of this determination is an inquiry to the

version of the initiated application, as shown in line 49-54), the version inquiry includes:

determining a current version of the program code (col. 4 lines 48-53, where the version

of an application (program code) is determined as a property of the application)

satisfying an operating policy (col. 5 lines 25-30, where the policy corresponding to the

application is also identified) that is updated for each new version of the program code

is made available for installation on a client (the updating of the program code when the

new update is made available is taught by combination of Kester and Kot, and

particularly teachings of Kot as outlined below); suspending the execution of program

code on a client when the client version of the program code on the client is different

from the current version of program code satisfying the operating policy (col. 5 lines 33-

35, where the execution is denied if the policy does not allow it. Therefore, if the policy

associated with the version of the launched program does not allow its execution, it

won't be executed, and if the policy associated with the version allows execution, it will

be executed. Therefore, the program version that is different than the version allowed to

be executed, will not be executed.)

Kester teaches determining a client version of program code during launch of the

program (col. 4, lines 42-43). Kester also teaches taking an action when the current

version of the program does not match the client version based on a policy, but it does

not explicitly teach a policy that requires updating the client program with the current

version of the program, or determining a client version of program code during launch of

the program.

Kot col. 1 lines 38 to 68 teaches determining the version of the client program,

comparing it with the current version stored on a server, and when they versions are

different, uploading the current version on the client to replace the client version.

Kester and Kot are analogous art as they are both directed to managing applications

software running on client devices of a network. At the time of invention, it would have

been obvious to the one skilled in art to improve the system of Kester to include a policy

that requires software updating once it is determined that the client version is old (not

matching the current version) as taught by Kot. The motivation to do so would have

been to improve software management by assuring that all clients run the current

software version.

generating a message for display to a user via the client, the message including an

error message (Kester col. 5 lines 47-62 show that when the policy prohibits an action

an error message explaining the issue is shown to the user. Therefore, as indicated in

the above,the combination of Kester in view of Kot teaches that when the issue is that

the software is old, the message will explain to user that the software is old).

Kester in view of Kot (and particularly Kot) teaches initiating a software update once it is

determined that the current version is not the latest version, but does not explicitly

include many details of the update sequence.

Cheng teaches a software update system for updating various software products

(abstract). Based on col. 7 lines 54 to 61, Cheng teaches that a list of updates is

determined and displayed to the user for selection.

Chen and Kester in view of Kot are directed to analogous art as they are both directed

to software update systems. At the time of invention, it would have been obvious to the

one skilled in art to improve Kester in view of Kot by including the details as taught by

Cheng, and to include the information related to available updates and display the to the

user for selection. The motivation would have been to allow the user to monitor the

process of software installation, have the flexibility to restore the system to the original

state before installation, and provide means to pay for the new updates (see Cheng col.

3 line 40 to col. 5 line 33).

Therefore, Kester in view of Kot and Chen teaches displaying an error message when

the software is old and including the list of new available updates.

Kester in view of Kot and Chen also teach a user-selectable link to provide access to

updated program code having the current version (Cheng col. 7 line 61 to col. 8 line 43);

and updating the program code on the client with updated program code when the user

selects the link and accesses the updated program code (Kot col. 1 lines 38 to 68, or

Cheng col. 8 lines 43-61).

6.2.   As per claim 11, Kester in view of Kot and Cheng is directed to he method of

claim 10, further comprising executing the program code on the client when the version

of program code on the client corresponds to the version of program code satisfying the

operating policy (see response to claim 1, or Kot Fig. 3 and associated text).

6.3.   As per claim 13, Kester in view of Kot and Cheng is directed to the method of

claim 10, further comprising receiving the operating policy at the client (Kester col. 5

lines 4-9. Note that per Fig. 2, the workstation management module is part of the

workstation).

6.4.   As per claim 16, Kester in view of Kot and Cheng is directed to the method of
claim 10, wherein the user initiation of the execution of the program code includes a
user attempt to access a file associated with the program code such that accessing the
file initiates execution of the program code (Cheng Fig. 16 and associated text teaches
an example where the user access the recovery module, and as a result a program
code (reboot sequence) is initiated. Therefore, a user initiates the execution of a reboot
includes a user attempt to access the recovery module (a program associated with the
reboot), and accessing the recovery program initiates the execution of the reboot
program.)

6.5.   As per claim 17, Kester in view of Kot and Cheng is directed to the method of
claim 10, further comprising notifying a network administrator if the version of program
code on the client is different from the version of program code satisfying the operating
policy (Kester col. 15, lines 32-60).

6.6.   As per claim 18, Kester in view of Kot and Cheng is directed to the method of
claim 10, further comprising recording in a log if the version of program code on the
client is different from the version of program code satisfying the operating policy
(Kester col. 13, lines 4-21).

6.7.   Limitations of claims 33 and 35 are substantially the same as claims 10-13, and
16-18 above.

7.   Claims 14-16, 36-38 and 40 rejected under 35 U.S.C. 103(a) as being
unpatentable over Kester in view of Kot and Cheng, and further in view of Examiner
Official Notice.

7.1.   As per claim 14, Kester in view of Kot and Cheng is directed to the method of
claim 10, further comprising writing the version of program code on the client to a cache
and then reading the cache while the program code is loading (col. 13, lines 4-21
teaches logging that an application is allowed for execution. Examiner takes the official
notice that caching to speed up a decision process was well-known in the art.
Therefore, Kester's teaching of logging the execution allowed application, and the
official notice make caching and reading the cache while program is running to speed
up decision making to execute the program obvious.

7.2.   As per claim 15, Kester in view of Kot and Cheng is directed to the method of
claim 10, wherein updating the program code on the client includes transmitting at least
one patch or service pack to the client station (as shown in claim 1, Kester in view of
Kot and Cheng teaches updating the client software by downloading the current version
of the software. The service pack is a portion of software that updates the downloaded
software. Therefore, Kester in view of Kot and Cheng makes it obvious to download a
service pack to client software, because it is important to update the software as readily

shown by Kester in view of Kot and Cheng. In addition, Examiner takes Official Notice

that uploading service packs or patches to update a software application was well-

known in the art, and therefore obvious to do to the one skilled in art.)

7.3.   Limitation of claim 36 are substantially the same as claim 15, with the added

limitation that the patch includes information about the patch and an acceptance option

for installing the patch. However, patches typically include information about the version

of the patch and acceptance option was a well-known feature of patches in the art at the

time of invention.

7.4. As per claim 37, Kester in view of Kot and Cheng is direct to the method of claim

15. In addition, when the installation of a software requires rebooting the system, the

client is notified that the system needs to be rebooted to make installations in effect.

Note that Kot fig. 3 and associated text teaches rebooting the system after the new

version of the software is downloaded. Therefore, Kester in view of Kot and Cheng

teaches notifying the client prior to installation of the software.

7.5.   As per claim 16, Kester in view of Kot and Cheng is direct to the method of claim

10.

In addition accessing a file that initiates execution of a code was well-known in the art at

the time of invention. Examples are double clicking on the icons of a program on the

desk top view of windows systems (accessing the image (icon) file, which initiates the

execution of the associated program. Therefore, the feature was well-known in the art

and obvious to the one skilled in art to implement.)

7.6   Limitations of claims 38 and 40 are substantially the same as claims 15 above.

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is (571) 272-3739. The examiner can be normally reached on 9 hrs Mon-Fri, off Monday biweekly.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Farid Homayounmehr

3/12/2009

/Kambiz Zand/

Supervisory Patent Examiner, Art Unit 2434